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Attorney for Debtor, Joe Torres

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION

In re

JOE TORRES,

Debtor.

Case No.: 2:21-bk-12801-ER

Adv No.:

**FIRST AMENDED
COMPLAINT TO DETERMINE
DISCHARGEABILITY OF TAX
LIABILITY**

JOE TORRES,

Plaintiff,

UNITED STATES OF AMERICA, BY ITS
AGENCY INTERNAL REVENUE SERVICE;
STATE OF CALIFORNIA FRANCHISE TAX
BOARD; and CALIFORNIA DEPARTMENT
OF TAX AND FEE ADMINISTRATION,

Defendant(s).

Date: See Summons

COMPLAINT TO DETERMINE THE DISCHARGEABILITY OF TAX LIABILITY

Plaintiff, Joe Torres, Debtor in the above-captioned bankruptcy proceeding, respectfully alleges as follows:

1. Debtor, Joe Torres, (“Plaintiff”) commenced this voluntary proceeding under Chapter 7 of Title 11 of the United States Bankruptcy code on March 5, 2021 in the Central District of California, Los Angeles Division. This Court has jurisdiction over this adversary

COMPLAINT TO DETERMINE DISCHARGEABILITY OF TAX LIABILITY - 1

1 proceeding pursuant to 28 U.S.C. section 1334. This is a core proceeding under 28 U.S.C.
2 157(b)(2)(1).

3 2. Prior to two years before the commencement of this Chapter 7 proceeding,
4 Plaintiff filed his federal tax return, form 1040, for tax year 2013, his State of California tax
5 return, form 540, for the tax year 2013, and his California State Sales tax forms for the years
6 2013 through 2016.

7 3. Defendant United States of America, though its agency Internal Revenue Service,
8 (“IRS”) has assessed taxes as follows:

TAX YEAR	DATED ASSESSED	EST. BALANCE DUE (as of 6/27/2018)
2013	June 27, 2018	\$542,865.00

12 4. Defendant State of California Franchise Tax Board, (“FTB”) has assessed taxes as
13 follows:

TAX YEAR	DATED ASSESSED	EST. BALANCE DUE (as of 02/01/2021)
2013	June 27, 2018	\$230,481.97

17 5. Defendant California Department of Tax and Fee Administration (“CDTFA”) has
18 assessed taxes as follows:

TAX YEAR	DATED ASSESSED	EST. BALANCE DUE (as of 03/05/2021)
2013 - 2016	June, 2018	\$356,746.00

22 6. The taxes set forth are listed in Plaintiff’s Chapter 7 bankruptcy Schedule E.
23 Plaintiff is informed and believes and thereon alleges that the taxes set forth herein have and do
24 continue to accrue penalties and interest which are also a part of the liability Plaintiff now seeks
25 to discharge.

27 7. Defendants, IRS, FTB, and CDTFA claim and allege that the taxes and accrued
28 interest and penalties set forth herein are all due and owing from Plaintiff.

1 8. Plaintiff hereby alleges that all the taxes, interest, and penalties set forth in
2 paragraphs 3, 4 and 5 are dischargeable in this Chapter 7 proceeding pursuant to 11 U.S.C.
3 sections 523, 507 and 727.

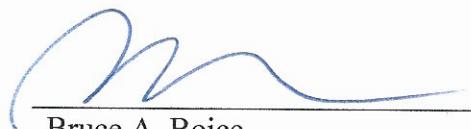
4 9. A determination by this court as to the dischargeability of these taxes referred to
5 herein is necessary and required in order to conclude this proceeding and resolve the controversy
6 between Plaintiff and Defendant regarding the taxes.

7 **WHEREFORE**, Plaintiff prays as follows:

- 8 1. For a determination that the federal taxes owed to the United Stated of America,
9 Internal Revenue Service, including all accruals of interests and penalties, for tax year
10 2016 is dischargeable.
- 11 2. For a determination that the state taxes owed to the State of California Franchise Tax
12 Board, including all accruals of interests and penalties, for tax year 2013 is
13 dischargeable.
- 14 3. For a determination that the state sales taxes owed to the California Department of
15 Tax and Fee Administration, including all accruals of interests and penalties, for tax
16 years 2013 through 2016 are dischargeable.
- 17 4. For such other and further relief as this court deems just.

19 Dated: June 26, 2021

20 Respectfully Submitted,

21 
22 Bruce A. Boice
23 Attorney for Debtor

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>2:21-bk-12801-ER</p> <p>Bruce A. Boice, Esq., SBN: 249296</p> <p>Law Office of Boice & Associates</p> <p>307 E. Chapman Ave., Suite 102</p> <p>Orange, CA 92866</p> <p>TEL: 949-690-8647</p> <p>FAX: 949-612-0859</p> <p>bboice@lawyer.com</p> <p><i>Attorney for Plaintiff</i></p>	<p>FOR COURT USE ONLY</p>
<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION</p>	
<p>In re: JOE TORRES</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 2:21-bk-12801-ER</p> <p>CHAPTER: 7</p> <p>ADVERSARY NO.:</p>
<p>JOE TORRES</p> <p style="text-align: right;">Plaintiff(s)</p> <p>Versus</p> <p>UNITED STATES OF AMERICA, BY ITS AGENCY INTERNAL REVENUE SERVICE; STATE OF CALIFORNIA FRANCHISE TAX BOARD; and CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION</p> <p style="text-align: right;">Defendant(s)</p>	<p>SUMMONS AND NOTICE OF STATUS CONFERENCE IN ADVERSARY PROCEEDING [LBR 7004-1]</p>

TO THE DEFENDANT: A Complaint has been filed by the Plaintiff against you. If you wish to defend against the Complaint, you must file with the court a written pleading in response to the Complaint. You must also serve a copy of your written response on the party shown in the upper left-hand corner of this page. The deadline to file and serve a written response is _____. If you do not timely file and serve the response, the court may enter a judgment by default against you for the relief demanded in the Complaint.

A status conference in the adversary proceeding commenced by the Complaint has been set for:

Hearing Date: _____	Address:
Time: _____	<input type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012
Courtroom: _____	<input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501
	<input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701
	<input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101
	<input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

You must comply with LBR 7016-1, which requires you to file a joint status report and to appear at a status conference. All parties must read and comply with the rule, even if you are representing yourself. You must cooperate with the other parties in the case and file a joint status report with the court and serve it on the appropriate parties at least 14 days before a status conference. A court-approved joint status report form is available on the court's website (LBR form F 7016-1.STATUS.REPORT) with an attachment for additional parties if necessary (LBR form F 7016-1.STATUS.REPORT.ATTACH). If the other parties do not cooperate in filing a joint status report, you still must file with the court a unilateral status report and the accompanying required declaration instead of a joint status report 7 days before the status conference. **The court may fine you or impose other sanctions if you do not file a status report. The court may also fine you or impose other sanctions if you fail to appear at a status conference.**

KATHLEEN J. CAMPBELL
CLERK OF COURT

Date of Issuance of Summons and Notice of Status Conference in Adversary Proceeding: _____

By: _____
Deputy Clerk

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
307 E. Chapman Ave., Suite 102, Orange, CA 92866

A true and correct copy (1) of the foregoing document entitled: **SUMMONS AND NOTICE OF STATUS CONFERENCE IN ADVERSARY PROCEEDING [LBR 7004-1]** and (2) the accompanying pleading(s) entitled:

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**:

On (date) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

3

Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date

Printed Name

Signature

B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS JOE TORRES	DEFENDANTS UNITED STATES OF AMERICA, BY ITS AGENCY INTERNAL REVENUE SERVICE; STATE OF CALIFORNIA FRANCHISE TAX BOARD; CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION	
ATTORNEYS (Firm Name, Address, and Telephone No.) Bruce A. Boice, Esq., SBN: 249296 307 E. Chapman Ave., Suite 102 Orange, CA 92866 949-690-8647	ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Dischargeability of Taxes		
NATURE OF SUIT		
(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other		
FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property		
FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)		
FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)		
FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation		
FRBP 7001(6) – Dischargeability <input checked="" type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)		
FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other		
FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other		
FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest		
FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment		
FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause		
Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et.seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)		
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$	
Other Relief Sought		
Discharge of Taxes		

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR JOE TORRES	BANKRUPTCY CASE NO. 2:21-bk-12801-ER	
DISTRICT IN WHICH CASE IS PENDING Central District of California	DIVISION OFFICE Los Angeles	NAME OF JUDGE Hon. Ernest M. Robles
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE 06/15/2021	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Bruce A. Boice	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.